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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,943	05/22/2006	Claudio Cerqueira Lopes	149559.00100	9471
25207 7590 02/05/2008 POWELL GOLDSTEIN LLP ONE ATLANTIC CENTER FOURTEENTH FLOOR 1201 WEST PEACHTREE STREET NW ATLANTA, GA 30309-3488				
EXAMINER				
JABLE, CECILIA M				
ART UNIT		PAPER NUMBER		
1624				
MAIL DATE		DELIVERY MODE		
02/05/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/595,943

Applicant(s)

LOPES ET AL.

Examiner

CECILIA M. JAISLE

Art Unit

1624

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-24, 26-29, 31, 32 and 34-37 is/are rejected.
- 7) ☒ Claim(s) 25, 33, 38 and 309 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/888)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED OFFICE ACTION

Rejections Under 35 USC 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21, 22, 29 and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21:

- The phrase "and their derivatives" fails to particularly point out and distinctly claim the subject matter. In chemistry, a derivative is a compound that is formed from a similar compound or a compound that can be imagined to arise from another compound, if one atom is replaced with another atom or group of atoms. The claim fails to point out or distinctly claim how the core structure is to be varied to form a modified compound with functionalities and the metes and bounds of said derivatives is difficult to ascertain.
- The term "alkinyl" and "cycloalkinyl" should be corrected to the accepted spellings of --alkynyl-- and --cycloalkynyl--, respectively.
- Unless Applicants can establish that the claimed process prepares compounds wherein n is between 1 and 2, the phrase "n varies from 1 to 2" should be changed to read --n is 1 or 2--.

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- Unless Applicants establish the existence of dicarboxylic acid and hydrazine starting materials with cyclopropenyl, cyclopropynyl and such other low carbon number groups, these starting materials should be limited accordingly.

Claim 22:

- One iteration of “an aromatic heterocyclic ring containing from 4 to 8 atoms” and “a non-aromatic heterocyclic ring containing from 4 to 8 atoms” should be deleted.
- The recitation of “coupled” is not understood.

Claims 29 and 37:

- Claims 21 and 22, respectively, provide no antecedence for “the reaction solvent.”

Rejections Under 35 USC 102

Claims 21-24, 26-29, 31, 32 and 34-37 are rejected under 35 USC 102(b) over Barakat, et al., 1955, pp. 3299-3300, describes (p. 3300) the reaction of phthalic acid with phenylhydrazine and anhydrous zinc chloride in dioxan.

Objected Claims – Allowable Subject Matter

Claims 25, 30, 33 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 25, 30, 33 and 38 are seen to be directed to allowable subject matter, because Barakat does not teach or suggest the use of niobium pentachloride in the process therein disclosed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CECILIA M. JAISLE, J.D. whose telephone number is (571)272-9931. The examiner can normally be reached on Monday through Friday; 8:30 am through 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James O. Wilson/
Supervisory Patent Examiner
Art Unit 1624

CECILIA M. JAISLE, J.D.
1/30/2008